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*Presentation to Members of the House and Senate Finance
Subcommittees on Land Conservation Tax Credit*

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House Room C



Conservation Easement Tax Credits

Introduction

Land Conservation in Virginia

Methods of Conservation

Conservation Easements

Land Preservation Credits

Sample Easements

Easement Benefits

Problems

Solutions

Conclusion

Article XI, Constitution of VA

To the end that the people have clean air, pure water, and the use and enjoyment for recreation of adequate public lands, waters, and other natural resources, it shall be the policy of the Commonwealth to conserve, develop, and utilize its natural resources, its public lands, and its historical sites and buildings. Further, it shall be the Commonwealth's policy to protect its atmosphere, lands, and waters from pollution, impairment, or destruction, for the benefit, enjoyment, and general welfare of the people of the Commonwealth.



Land Conservation



The Commonwealth has experienced a significant conversion of its natural and historic resource base.

- 490,000 acres of forestland lost between 1992 and 2000
- 480,000 acres of cropland lost between 1982 and 1997
- 343,500 acres lost to development between 1992 and 1997
- 61% of the State's environmentally-sensitive natural areas are unprotected
- 50% of the State's wetlands have been converted to other uses.



Conservation as Public Policy

- Habitat/Wildlife
- Open Space
- Threatened species
- Historic Preservation
- Water Quality
- Recreation
- Forest Industry
- Working Farms
- View sheds
- Managed Growth
- Quality of Life



Economic Benefit of Conservation

- Tourism is 3rd Largest Industry in VA
- \$16 Billion/yr
- Cultural Tourism fastest growing sector
- Public Service Demands of residential developed land exceeds tax revenue
- Public Service Demands of rural property less than tax revenue



Conservation Goal

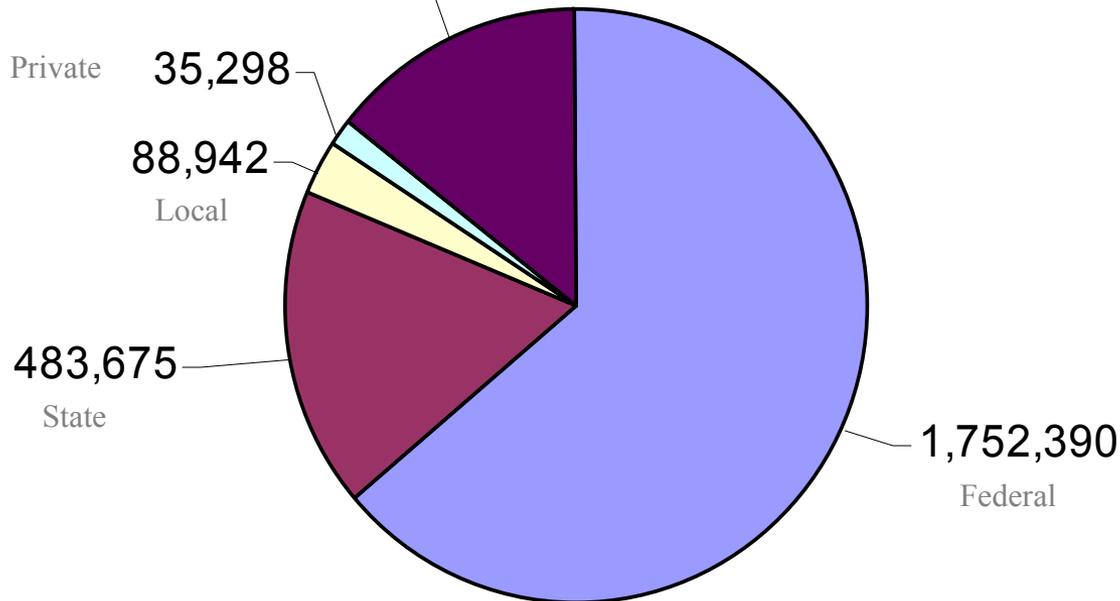
• **ADOPTED CHESAPEAKE BAY GOAL:** By 2010, Virginia and its Bay neighbors agreed to permanently preserve 20% of the land area in the Bay Watershed.

(2000 Chesapeake Bay Agreement)



Progress towards Virginia Chesapeake Bay Land Goal

Remainder needed to meet 20% goal 400,000



Total acres conserved is 2.36 M acres or 17% of the Bay Watershed

Methods of Land Conservation

Fee Simple Title

- Partnership with Fed
- Partnership with NGO
- Targeted Acquisition
- Public Access
- GOB

Conservation Easement

- Donation from private landowners
- Purchased with grants (local, state, federal)



Conservation Partners

Department of Conservation and Recreation:

Virginia Land Conservation Foundation (VLCF)

Conservation Reserve Enhancement Program (CREP)

Land and Water Conservation fund (LWCF)

Virginia Outdoors Foundation: Easement Programs; Open Space
Lands Preservation Trust Fund

Department of Forestry: Forest Legacy

Department of Historic Resources: Historic Preservation Grants

Department of Agriculture and Consumer Services

Department of Game and Inland Fisheries



Vehicles for Land Conservation

- Virginia Land Conservation Foundation
- Agencies Acquiring Title
- Agencies Acquiring/Holding Easements
- General Obligation Bond



Virginia Land Conservation Foundation

- 18 member citizen Board
- DCR staffs, with DHR, DGIF, VOF, VDACS, and DOF.
- Provides grants to localities, NGO & state agencies
- 25% of VLCF funds transferred to the Virginia Outdoors Foundation.
- Funding local PDR programs
- Funding split equally among:
 - 1) Natural area protection
 - 2) Open space and parks
 - 3) Historic area preservation
 - 4) Farmlands and forest preservation
- FY 05 Funding: \$2.5 M
- FY 06 Funding: \$12.5 M



Virginia Outdoors Foundation

- Founded 1966, prior to adoption of Article XI
- Holds more easements than any entity in US
- 290,366 acres under easement *(as of 5/2005)*
- More easements donated last 5 years than in previous 35 years
- Funding
 - Direct Appropriation
 - 25% of VLCF funding
 - \$1 Recordation Fee



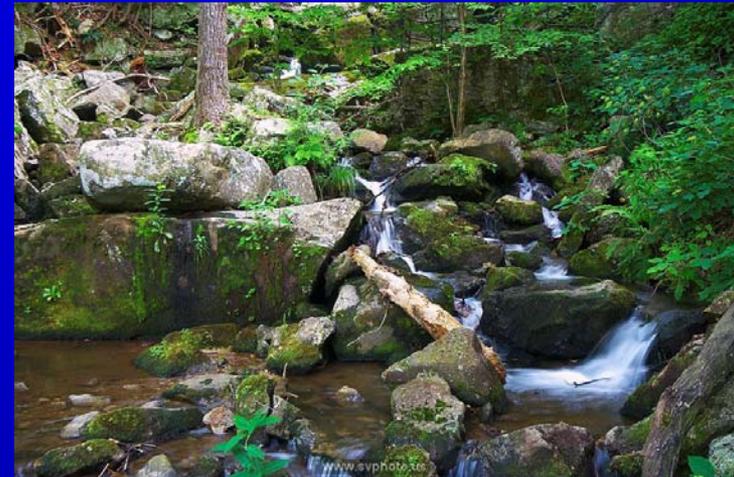
Description of Easements

- Legally binding, voluntary, contractual limitation on development potential
- “Highest and Best” use often diminished
- Federal IRS recognizes diminution as charitable contribution against AGI
- Code of VA recognizes donation through LPC program



Virginia's Land Preservation Credit

- **Significantly enhances Easement Program**
- **Dept. of Taxation Reports (2000-2004)**
 - \$241 M requested credits
 - 504 donations
 - 93,000 acres
 - \$482 M of conservation value
 - < \$2600/acre average
- **Senate Bill 1139 – 2005**
 - Addresses faulty appraisals
 - Adds stricter rules and guidelines for appraisals and appraisers
 - Allows the Department of Taxation to disregard fraudulent appraisals and refer appraisers for disciplinary action
 - Legislative Study Committee formed to examine the ramifications of putting a cap on the tax credit program for conservation easements



Threats to the Program

- Abuses of the program
- Overvaluation/appraisals of easements
- Quid-pro-quo for donations



Conservation Easements Compliment Land Acquisition

Benefits to Donors

- Preservation of Family Farms
- Conservation Goals of Donors
- Respect for Property Rights
- Tailored to needs of donor
- Financial Benefits
 - Estate Planning/Taxes
 - Deduction
 - Tax Credits
 - Sale of Credits



Conservation Easements Compliment Land Acquisition

Benefits to Commonwealth

- Cost Effective – Leverage public \$ at fraction of cost of land acquisition
- Land conservation subsidized by private \$
- Minimal maintenance costs to Commonwealth
- Targeted – Highest incentive for easement in path of development
- Market Driven – Demands for sprawl drive incentives
- Tourism - \$16 B industry in VA



Conclusion

- Policy of the Commonwealth to preserve land
- Easement program compliments other land conservation efforts
- Several abuses shouldn't jeopardize successful program
- Solution rests in restoring program's integrity
- Minor tweaks may be necessary
- With time, stakeholders will propose equitable solution and restore critics' confidence